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| 09/759,435 | 01/11/2001 | William M. Raveis JR. | 455850.0025 (HLS-123) | 9969 |

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EXAMINER

LASTRA, DANIEL

| ART UNIT | PAPER NUMBER |
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3622

DATE MAILED: 07/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/759,435

Applicant(s)

RAVEIS, WILLIAM M.

Examiner

DANIEL LASTRA

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.5.6.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-69 have been examined. Application 09/759,435 (System and method for managing real estate transactions) has a filing date 01/11/2001 and is a continuation in part of 09/459,234 (Pat. 6,321,202; 12/10/99) and Claims Priority from provisional Application 60/175,606 (01/11/2000).

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-33 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-33 are not within the technological arts.

As an initial matter, the United States Constitution under Art. I, §8, cl. 8 gave Congress the power to "[p]romote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries". In carrying out this power, Congress authorized under 35 U.S.C. §101 a grant of a patent to "[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition or matter, or any new and useful improvement thereof." Therefore, a fundamental premise is that a patent is a statutorily created vehicle for Congress to confer an exclusive right to the inventors for "inventions" that promote the progress of "science and the useful arts". The phrase "technological arts" has been created and used by the courts to offer another view of the term "useful arts". See *In re Musgrave*, 167 USPQ (BNA) 280 (CCPA 1970). Hence, the first test of

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whether an invention is eligible for a patent is to determine if the invention is within the "technological arts".

Further, despite the express language of §101, several judicially created exceptions have been established to exclude certain subject matter as being patentable subject matter covered by §101. These exceptions include "laws of nature", "natural phenomena", and "abstract ideas". See *Diamond v. Diehr*, 450, U.S. 175, 185, 209 USPQ (BNA) 1, 7 (1981). However, courts have found that even if an invention incorporates abstract ideas, such as mathematical algorithms, the invention may nevertheless be statutory subject matter if the invention as a whole produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group, Inc.* 149 F.3d 1368, 1973, 47 USPQ2d (BNA) 1596 (Fed. Cir. 1998).

This "two prong" test was evident when the Court of Customs and Patent Appeals (CCPA) decided an appeal from the Board of Patent Appeals and Interferences (BPAI). See *In re Toma*, 197 USPQ (BNA) 852 (CCPA 1978). In *Toma*, the court held that the recited mathematical algorithm did not render the claim as a whole non-statutory using the Freeman-Walter-Abele test as applied to *Gottschalk v. Benson*, 409 U.S. 63, 175 USPQ (BNA) 673 (1972). Additionally, the court decided separately on the issue of the "technological arts". The court developed a "technological arts" analysis:

The "technological" or "useful" arts inquiry must focus on whether the claimed subject matter...is statutory, not on whether the product of the claimed subject matter...is statutory, not on whether the prior art which the claimed subject matter purports to replace...is statutory, and not on whether the claimed subject matter is presently perceived to be an improvement over the prior art, e.g., whether it "enhances" the operation of a machine. *In re Toma* at 857.

In *Toma*, the claimed invention was a computer program for translating a source human language (e.g., Russian) into a target human language (e.g., English). The court found that the claimed computer implemented process was within the "technological art" because the claimed invention was an operation being performed by a computer within a computer.

The decision in *State Street Bank & Trust Co. v. Signature Financial Group, Inc.* never addressed this prong of the test. In *State Street Bank & Trust Co.*, the court found that the "mathematical exception" using the Freeman-Walter-Abele test has little, if any, application to determining the presence of statutory subject matter but rather, statutory subject matter should be based on whether the operation produces a "useful, concrete and tangible result". See *State Street Bank & Trust Co.* at 1374. Furthermore, the court found that there was no "business method exception" since the court decisions that purported to create such exceptions were based on novelty or lack of enablement issues and not on statutory grounds. Therefore, the court held that "[w]hether the patent's claims are too broad to be patentable is not to be judged under §101, but rather under §§102, 103 and 112." See *State Street Bank & Trust Co.* at 1377. Both of these analysis goes towards whether the claimed invention is non-statutory because of the presence of an abstract idea. Indeed, *State Street* abolished the Freeman-Walter-Abele test used in *Toma*. However, *State Street* never addressed the second part of the analysis, i.e., the "technological arts" test established in *Toma* because the invention in *State Street* (i.e., a computerized system for determining the year-end income, expense, and capital gain or loss for the portfolio) was already determined to be within

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the technological arts under the *Toma* test. This dichotomy has been recently acknowledged by the Board of Patent Appeals and Interferences (BPAI) in affirming a §101 rejection finding the claimed invention to be non-statutory. See *Ex parte Bowman*, 61 USPQ2d (BNA) 1669 (BdPatApp&Int 2001).

In the present application, independent claim 1 recites a “useful, concrete and tangible result” (method for managing real estate transactions), however the claims recite no structural limitations (i.e., computer implementation), and so they fail the first prong of the test (technological arts). Dependent claims 2-33 do not remedy this situation as no structural limitations are recited.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19, 21, 22, 25-31, 33-52, 54, 55, 58-65 and 67-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mini et al (U.S. 6,684,196) in view of Real Estate is no Easy Sell.

As per claim 1, Mini teaches:

A method for managing real estate transactions over a distributed computer network comprising the steps of:

(a) storing data relating to a plurality of listings in a computerized database, each listing owned by an office, each office having a plurality of agents associated

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therewith, each office having a predefined region and at least one manager associated therewith (see column 10, lines 34-49; column 7, line 60 – column 8, line 5);

(b) monitoring postings of transactions relating to the plurality of listings (see column 14, lines 7-29);

and

(c) calculating commissions for the agents, the offices and the at least one manager associated with a transaction in accordance with a set of parameters (see column 7, lines 29-67; figure 8). Min does not expressly teach a manager. The article Real Estate is no easy sell for Washington DC area agent describes how managers and assistance help real estate agents do their jobs (see page 2). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that commissions earned by real estate agents would be shared with managers, as managers help agents do their jobs. It would be a business decision between a manager and an agent on how much percentage of the agent's commission would belong to the manager and how much would belong to the Office.

As per claim 2, Min teaches:

A method according to Claim 1, further comprising the steps of storing data relating to advertising in the computerized database and calculating commissions for the offices based upon the data relating to the advertising (see figure 8; see column 7, lines 35-40).

As per claim 3, Min teaches:

A method according to Claim 1, but fails to teach further comprising the steps of storing data relating to vendors in the computerized database and calculating commissions for the agents and offices based upon the data relating to the vendors. (see column 5, lines 37-50; column 3, lines 40-54).

As per claim 4, Min teaches:

A method according to Claim 1, further comprising the step of storing data relating to contacts in a computerized database, the contacts having agents associated therewith, wherein the contacts have listings associated therewith and the data relating to contacts includes a prefix, first name, last name and home phone number (see column 8, lines 1-5).

As per claim 5, Min teaches a method according to Claim 4, but fails to teach further comprising the steps of preventing deletion of a contact associated with an external business object and allowing only the agent associated with the contact to view and edit the data relating to the contact. However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Min would only permit agents associated with the contacts to change the contacts' profiles. This feature would not allow competing agents to alter the contacts' profiles and therefore disrupting a business deal.

As per claim 6, Min teaches:

A method according to Claim 1, further comprising the step of allowing the plurality of agents to initiate open house requests and advertising requests (see column 7, lines 14-27).

As per claim 7, Min teaches:

A method according to Claim 1, further comprising the step of storing data relating to agents in the computerized database, the data relating to agents including status, first name, last name and phone numbers, wherein the agents have at least one title associated therewith, the at least one title selected from the group consisting of agent, sales manager and office manager (see column 8, lines 6-25).

As per claim 8, Min teaches a method according to Claim 1, but fails to teach further comprising the step of maintaining data relating to the predefined regions used to set agent's commission split levels, whereby the agent's commission split levels determine an agent split percentage based on agent earnings, wherein the agent's commission split level has a first level equal to zero and a ceiling split level equal to a prior level's ceiling plus one unless the ceiling split level is the first level. However, Min teaches that that the level of commissions at each stage is based on a variety of parameters including, but not limited to, the value of the home, the commission level in the area, the current climate of the market in the area and various company promotional campaigns which may be global, regional, or local (see column 7, lines 35-40). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the agent's commission would be determined by different parameters, such as the current climate of the market where the agent works. The method use to calculate commissions would not patentably distinguish the claimed invention from the prior art.

As per claim 9, Min teaches:

A method according to Claim 1, further comprising the step of maintaining data relating to the predefined regions in a computerized database, the data relating to regions including field selected from the group consisting of a created by field, a date of creation field, a last changed by field and a last changed date field (see column 8, lines 1-5).

As per claim 10, Min teaches:

A method according to Claim 1, further comprising the step of maintaining data relating to offices in a computerized database, each agent being assigned to only one office, the data relating to offices including a status selected from the group consisting of incomplete, open and closed, wherein the data relating to the offices includes an office identifier, an office name, an office address, a system identifier, an accounting identifier and a region identifier, wherein the data relating to the offices includes a monthly sales goal, an office listing goal, a referral goal and an earnings goal (see column 8, lines 5-25). Min does not expressly teach a monthly sale goal, an office listing goal, a referral goal and earning goal. However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that all real estate office would have corresponding production goals. This would be a business decision of a real estate office that would not patentably distinguish the claimed invention from the prior art.

As per claim 11, Min teaches:

A method according to Claim 1, further comprising the step of maintaining data relating to the listings in the computerized database, the data relating to the listings

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including an address, a city, a state, a zip code, a seller identifier, a listing agent, a list date, an expiration date, a list price, a total commission and a listing type, wherein the listing type determines which contracts are printed, wherein the contracts are selected from the group consisting of exclusive right to sell, open agency and exclusive agency (see column 10, lines 34-47).

As per claim 12, Min teaches a method according to Claim 1, but fails to teach wherein the commissions are based upon flat fees and percentages, the percentages being between one percent and fifteen percent and the flat fee being greater than zero and less than a selling price for the listing. However, the same rejection applied to claim 8 is applied to claim 12.

As per claim 13, Min teaches:

A method according to Claim 1, wherein the data relating to the plurality of the listings includes a listing status, wherein the listing status is selected from the group consisting of open, under contract, closed and canceled (see column 10, line 34 – column 11, line 30).

As per claim 14, Min teaches:

A method according to Claim 1, further comprising storing data relating to sale transactions in a computerized database, the sale transactions consisting of contracts for contacts to purchase listings associated with the real estate company, wherein the data relating to the sale transactions includes an address, a multiple listing system identifier, at least one listing agent, at least one buyer and at least one seller, wherein a

maximum of five listing agents and five buyers can be entered in the computerized database (see column 12).

As per claim 15, Min teaches:

A method according to Claim 1, wherein the commissions for the agents are based upon parameters selected from the group consisting of selling price, splits agreed upon between a listing agent and a selling agent, commission splits for agents based upon earning schedules and a marketing adjustment (see figure 8; column 7, lines 29-40).

As per claim 16, Min teaches:

A method according to Claim 1, wherein the commissions for the at least one manager are based upon parameters selected from the group consisting of agent commissions, a predefined period of time and predetermined percentages per office based upon the predefined region and the predefined period of time, wherein when the sale transactions are posted, the commissions for the agent are updated accordingly, wherein when posting the sale transactions, a listing side commission is posted before a selling side commission, the commissions for the agent being recalculated before posting the selling side commission (see figure 8; column 7, lines 29-40). Min does not expressly teach that the agent's commission would be recalculated before posting the selling side commission. However, this feature would be a business decision that would not patentably distinguish the claimed invention from the prior art.

As per claim 17, Min teaches:

A method according to Claim 1, further comprising the steps of:

(d) tracking trustee money deposited and disbursed from the transactions, wherein each of an action date, a type, a deposit, a disbursement and a received from payee field must be entered into the database to facilitate tracking the trustee money); and (e) tracking a created by field, a created date field, a last changed by field and a last changed date field for each trustee associated with the trustee money (see column 14, lines 15-27).

As per claim 18, Min teaches:

A method according to Claim 1, further comprising the steps of maintaining data relating to attorneys in a computerized database; and entering a name, a firm, an address and a business phone number for each attorney, wherein the data relating to the attorneys can be edited by the at least one manager and a predetermined administrator (see column 3, lines 45-54). Min does not expressly teach a business phone number and that at least one manager and a predetermined administrator can edit the data relating to attorneys. However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that permitting a manager or an administrator to be the only persons allow to edit an attorney's record would be a good business decision. This feature would not allow a competing agent to change the attorney's profile and therefore disrupting a business deal.

As per claim 19, Min teaches a method according to Claim 1, but fails to teach further comprising the step of maintaining data relating to referrals in a computerized database, the referrals being used to calculate the commissions, wherein an agent has initiated multiple referrals for a contact, each of the multiple referrals set to a

predetermined percentage according to office guidelines. However, the same rejection applied to claim 8 is applied to claim 19.

As per claim 21, Min teaches:

A method according to Claim 1, further comprising the step of maintaining data relating to multiple listing services in a computerized database, the data relating to the multiple listing services including a name to allow searching and matching of fields (see column 10, lines 34-47).

As per claim 22, Min teaches a method according to Claim 1, but does not expressly teach further comprising the steps of: d) maintaining data relating to contact activities in a computerized database, the contact activities including a thank you letter, a survey and a targeted mailing advertisement; and (e) entering a batch job identifier, a contact identifier, an activity date and a job type identifier for each of the contact activities. However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that users that register in the Min website would receive advertisements regarding properties that are on-sale. This feature would kept users well informed about the properties that are on-sale.

As per claim 25, Min teaches:

A method according to Claim 1, further comprising the step of maintaining data relating to advertising copy in a computerized database, the advertising copy being used for placing advertisements relating to the listings (see column 7, lines 14-40).

As per claim 26, Min teaches:

A method according to Claim 25, further comprising the step of limiting an ad copy record to association with one of the plurality of listings, the ad copy record being part of the data relating to the advertising copy and including ad copy fields selected from the group consisting of a one liner field, a short copy field, a long copy field and a home show field, wherein any of the ad copy fields can be empty (see column 7, lines 14-40).

As per claim 27, Min teaches a method according to Claim 1, but fails to teach further comprising the steps of maintaining data relating to sign vendors in a computerized database, the sign vendors being companies that tend to a sign on a listing, wherein the data relating to the sign vendors is selected from the group consisting of a name, an address, a preferred method of communication, communication data and a vendor identifier; allowing only the at least one manager to request installation and removal of the signs; and allowing the at least one manager to approve of advertising requests submitted by the agents, wherein the advertising request must be for a listing associated with an agent who submitted the advertising request. However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that real estate agents would contact companies that would install and remove property signs and that the agent's manager would be the one approve to install and remove the signs. This feature would not allow competing real estate agents to remove or alter the properties on-sale signs therefore disrupting business deals.

As per claim 28, Min teaches:

A method according to Claim 27, wherein the advertising request is initiated because of an open house request, a link to an open house identifier is associated with the advertising request (see column 7, lines 14-40).

As per claim 29, Min teaches:

A method according to Claim 27, but fails to teach further comprising the step of maintaining data relating to advertising placements in a computerized database, the advertising placements being used by the at least one manager to organize the advertising requests for placement in advertising media, where advertising media are selected from the group consisting of television, newspapers, magazines and brochures (see column 7, lines 35-40). Min does not expressly teach television, newspaper, magazine and brochure. However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Min would advertise the real estate properties in magazines, newspapers, televisions or in brochures. Magazines and newspaper are the standard method for advertising properties that are on-sale.

As per claim 30, Min teaches:

A method according to Claim 1, further comprising the step of maintaining data relating to showing the plurality of the listings in a computerized database, the data relating to showings is an audit trail of all showings for each of the plurality of the listings and is available over the Internet to a contact who owns a listing, wherein the data relating to the showings is selected from the group consisting of a date, a time, an

activity type, a comment by an agent, an entry date, a changed date and a comment by the contact (see column 11).

As per claim 31, Min teaches:

A method according to Claim 1, further comprising the step of scheduling appointments for the plurality of the listings in a computerized database, the appointments being for a listing agent and a cobroker to show a listing, wherein fields entered for appointments are selected from the group consisting of a date, a time, an agent, an agency, an agent phone and a remark (see column 11).

As per claim 33, Min teaches:

A method according to Claim 1, further comprising the steps of capturing responses to surveys in a computerized database, the surveys relating to the transaction; and updating nightly data relating to pending sale transactions in a computerized database in order to accurately predict future cash flows for the office (see column 8, lines 40-55).

Claim 34 contains the same limitations as claim 1 therefore the same rejection is applied.

As per claim 35, a system as recited in Claim 34 contains the same limitations as claim 2 therefore the same rejection is applied.

As per claim 36, a system as recited in Claim 34 contains the same limitations as claim 3 therefore the same rejection is applied.

As per claim 37, a system as recited in Claim 34, contains the same limitations as claim 4 therefore the same rejection is applied.

As per claim 38, a system as recited in Claim 37, contains the same limitations as claim 5 therefore the same rejection is applied.

As per claim 39, a system as recited in Claim 34, contains the same limitations as claim 6 therefore the same rejection is applied.

As per claim 40, a system as recited in Claim 34, contains the same limitations as claim 7 therefore the same rejection is applied.

As per claim 41, a system as recited in Claim 34, contains the same limitations as claim 8 therefore the same rejection is applied.

As per claim 42, a system as recited in Claim 34, contains the same limitations as claim 9 therefore the same rejection is applied.

As per claim 43, a system as recited in Claim 34, contains the same limitations as claim 10 therefore the same rejection is applied.

As per claim 44, a system as recited in Claim 34, contains the same limitations as claim 11 therefore the same rejection is applied.

As per claim 45, a system as recited in Claim 34, contains the same limitations as claim 12 therefore the same rejection is applied.

As per claim 46, a system as recited in Claim 34, contains the same limitations as claim 13 therefore the same rejection is applied.

As per claim 47, a system as recited in Claim 34, contains the same limitations as claim 14 therefore the same rejection is applied.

As per claim 48, a system as recited in Claim 34, contains the same limitations as claim 15 therefore the same rejection is applied.

As per claim 49, a system as recited in Claim 34, contains the same limitations as claim 16 therefore the same rejection is applied.

As per claim 50, a system as recited in Claim 34, contains the same limitations as claim 17 therefore the same rejection is applied.

As per claim 51, a system as recited in Claim 34, contains the same limitations as claim 18 therefore the same rejection is applied.

As per claim 52, a system as recited in Claim 34, contains the same limitations as claim 19 therefore the same rejection is applied.

As per claim 54, a system as recited in Claim 34, contains the same limitations as claim 21 therefore the same rejection is applied.

As per claim 55, a system as recited in Claim 34, contains the same limitations as claim 22 therefore the same rejection is applied.

As per claim 58, a system as recited in Claim 34, contains the same limitations as claim 25 therefore the same rejection is applied.

As per claim 59, a system as recited in Claim 34, contains the same limitations as claim 26 therefore the same rejection is applied.

As per claim 60, a system as recited in Claim 34, contains the same limitations as claim 27 therefore the same rejection is applied.

As per claim 61, a system as recited in Claim 34, contains the same limitations as claim 27 therefore the same rejection is applied.

As per claim 62, a system as recited in Claim 61, contains the same limitations as claim 28 therefore the same rejection is applied.

As per claim 63, a system as recited in Claim 61, contains the same limitations as claim 29 therefore the same rejection is applied.

As per claim 64, a system as recited in Claim 34, contains the same limitations as claim 30 therefore the same rejection is applied.

As per claim 65, a system as recited in Claim 34, contains the same limitations as claim 31 therefore the same rejection is applied.

As per claim 67, a system as recited in Claim 34, contains the same limitations as claim 33 therefore the same rejection is applied.

As per claim 68, Min teaches:

A distributed computer network for managing real estate transactions comprising:
a memory containing: a data tier program having functions for supporting a database for storing data relating to a plurality of contacts (see column 8, lines 1-5);

a web tier program having functions for managing requests for said data relating to the plurality of contacts and providing said data relating to the plurality of contacts to a plurality of agents (see column 7, lines 54-67);

a client tier program having functions for providing remote access to the database by said plurality of contacts and said plurality of agents (see column 10, lines 34-49);

a business tier program having functions for retrieving and storing said data relating to a plurality of contacts and applying business rules to said data relating to a plurality of contacts in order to generate a report (see column 6, lines 40-59); and

a processor for implementing the web tier program, the client tier program, the business tier program and the data tier program in order to manage real estate transactions (see column 6, lines 40-67).

As per claim 69, a computer-readable medium contains the same limitations as claim 1 therefore the same rejection is applied.

Claims 20, 32, 53 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mini et al (U.S. 6,684,196) in view of the article Real Estate is no easy sell for Washington DC area agent and further in view of Forrest et al (U.S. 6,049,781).

As per claim 20, Min and Real Estate teach a method according to Claim 1, but fails to teach further comprising the steps of: d) maintaining data relating to relocation clients in a computerized database, the relocation clients being external companies that an office partners with for managing corporate relocations, wherein the data relating to relocation clients includes a client identifier, a client name, an address, a phone number, a default percentage and a maximum percentage; and e) providing the ability to search for a relocation client. However Forrest teaches a relocation tracking system that maintains data relating to relocation clients (see abstract). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Min would use the Forrest system to keep track of real estate brokers so that superior performing broker/agents would be chosen to handle future relocations. This feature would provide users of the Min system with a better service as they would have the necessary information to make the best real estate decisions.

As per claim 32, Min and Real Estate teach a method according to Claim 1, but fails to teach further comprising the step of maintaining data relating to outgoing referrals in a computerized database, the outgoing referrals representing contacts who become buyers and sellers through an external relocation company, wherein the commissions are posted based upon the outgoing referrals yielding transactions. However, Forrest teaches a system that keep track of referrals for the purpose of determining referral commissions (see column 20, lines 6-27). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Min would keep track of referrals for the purpose of providing referral fees to persons that bring business to the Min system. The referral commissions would be an incentive to agents and persons to refer different service and product, as they would receive referral commissions.

As per claim 53, a system as recited in Claim 34, contains the same limitations as claim 20 therefore the same rejection is applied.

As per claim 66, a system as recited in Claim 34, contains the same limitations as claim 32 therefore the same rejection is applied.

Claims 23, 24, 56 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mini et al (U.S. 6,684,196) in view of the article Real Estate is no easy sell for Washington DC area agent and further in view of Barret et al (U.S. 5,046,084).

As per claim 23, Min and Real Estate teach a method according to Claim 1, but fails to teach further comprising the step of maintaining data relating to lockboxes in a

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computerized database, the data relating to the lockboxes indicating activity for the lockboxes assigned to one of the plurality of the listings. Barret teaches a system that maintains data related to lockboxes in a computerized database (see abstract). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Min would maintain the data related to lockboxes in a computerized database for the purpose of tracking usage of the lockboxes, as taught by Barret. This feature would track usage of lockboxes and would identify the agents accessing the lockboxes for the purpose of calculating commissions.

As per claim 24, Min, Real Estate and Barret teach:

A method according to Claim 23, further comprising the steps of entering as part of the data relating to lockboxes a lock box number, an issued to agent, an issue date, a return date and comments relating to the lockboxes; and assigning the lockboxes to one of the listings at a time, allowing only a valid agent to sign out a lockbox and requiring a previous lockbox to be marked as returned before a subsequent lockbox can be issued. However, the same rejection applied to claim 23 is applied to claim 24.

As per claim 56, a system as recited in Claim 34, contains the same limitations as claims 23 and 24 therefore the same rejection is applied.

As per claim 57, a system as recited in Claim 56, contains the same limitations as claim 24 therefore the same rejection is applied.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

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- Broerman teaches a real estate computer network to facilitate real estate transactions between a buyer and a seller.

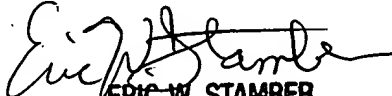
Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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DL

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June 17, 2004


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